

MDR Tracking Number: M5-04-0578-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 10-23-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The injection substance other than anesthesia, injection Methylprednisolone acetate, injection of Marcaine 2 cc 25%, injection sheath/ligament/trigger point/ganglion cyst, injection Triamcinolone adetonide, injection kenalog 40 mg/cc, infusion of normal saline, injection of Marcaine 3 cc were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 5<sup>th</sup> day of January 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 11-18-02 through 03-05-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 5<sup>th</sup> day of January 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division  
RL/dlh

January 2, 2004

## **AMENDED NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M5-04-0578-01**

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the \_\_\_ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in neurology. The \_\_\_ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the \_\_\_ physician reviewer certified that the review was performed without bias for or against any party in this case.

### Clinical History

This case concerns a male who sustained a work related injury on \_\_\_. The patient reported that while at work he was carrying a carpet with a co-worker when the co-worker dropped his end of the carpet. The patient reported difficulty with his right shoulder after this injury. The patient underwent shoulder X-Rays on 7/20/99 that was reported to be negative. The patient was treated with oral medications. On 8/10/99 the patient underwent an electromyogram that indicated acute cervical radicular process involving the right C6 nerve root. An MRI on 8/31/99 showed a broad based disc bulge and an MRI dated 9/3/99 showed C5-C6 disc bulge. The patient underwent a CT myelogram on 9/20/99 that indicated significant spondylitic changes with nerve root cut off at C4-C5 and C5-C6. The patient was then referred to orthopedic surgery and subsequently underwent C4-C5 and C5-C6 cervical microsurgical discectomy, osteophytectomy and anterior fusion. The patient has undergone several diagnostic studies that include MRI's of the right shoulder and cervical spine CT myelogram and EMG/NCV testing. Treatment for this patient has included epidural steroid injections and trigger point injections. The patient also has a back injury and has been treated with lumbar epidural steroid injections.

### Requested Services

Injection substance other than anesthesia, injection Methylprednisolone acetate, injection of Marcaine 2cc 25%, injection sheath/ligament/trigger point/ganglion cyst, injection triamcinolone adetonide, injection kenalog 40mg/cc, infusion of normal saline, injection of Marcaine 3cc from 11/18/02 through 3/5/03.

### Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

### Rationale/Basis for Decision

The \_\_\_\_ physician reviewer noted that this case concerns a male who sustained a work related injury to his right shoulder on \_\_\_\_\_. The \_\_\_\_ physician reviewer indicated that this patient has chronic pain secondary to a failed fusion syndrome, persistent upper extremity radiculopathy and shoulder derangement. The \_\_\_\_ physician reviewer noted that the patient has had three cervical epidural steroid injections that were staggered due to lack of efficacy. The \_\_\_\_ physician reviewer explained that the epidural steroid injections are usually administered in a series of three. The \_\_\_\_ physician reviewer noted that the patient had also undergone trigger point injections that were also staggered due to lack of efficacy. The \_\_\_\_ physician reviewer explained that the epidural steroid injections and trigger point injections were all a reasonable attempt to treat chronic complaints of pain and they were stopped after a reasonable trial. Therefore, the \_\_\_\_ physician consultant concluded that the Injection substance other than anesthesia, injection Methylprednisolone acetate, injection of Marcaine 2cc 25%, injection sheath/ligament/trigger point/ganglion cyst, injection triamcinolone adetonide, injection kenalog 40mg/cc, infusion of normal saline and injection of Marcaine 3cc from 11/18/02 through 3/5/03 were medically necessary to treat this patient's condition.

Sincerely,